



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

January 29, 2013

VIA FEDERAL EXPRESS: #546221778039

Jay Orr, County Executive Officer  
For Riverside County, California  
4080 Lemon Street, 4<sup>th</sup> Floor  
Riverside, CA 92501

Re: Information Request Letter Related to Stringfellow Superfund Site

Dear Mr. Orr:

The United States Environmental Protection Agency ("EPA") is spending public funds to investigate and respond to actual or threatened releases of hazardous substances, pollutants, and contaminants into the soil and groundwater from the Stringfellow Superfund Site (the "Site") in Riverside County, California. This letter seeks your cooperation in providing information and documents the County of Riverside, California (the "County") may have pertaining to certain real property currently owned by the County and assigned assessor parcel numbers 173-170-001, 173-170-003 and 173-170-014 (the "Property"). The term "Site" as used herein refers to the properties in or near Pyrite Canyon that surround the former Stringfellow hazardous waste disposal area.

As part of its ongoing investigation of the Site, EPA is seeking to identify activities and parties that have or may have contributed to contamination at the Site. EPA believes that the County may have information that will assist the EPA in its investigation, especially with regard to perchlorate releases. EPA requests that the County answer the questions contained in Enclosure B. Definitions and instructions on how to respond to the questions are provided in Enclosure A.

Under Section 104(e) of Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §9604(e), EPA has broad information-gathering authority that allows EPA to require persons to furnish information or documents relating to:

- (a) The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility or transported to a vessel or facility.
- (b) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility.
- (c) Information relating to the ability of a person to pay for or perform a cleanup.

Please note that the County's compliance with this information request is mandatory. Failure to respond fully and truthfully may result in an enforcement action by EPA pursuant to Section 104(e)(5) of CERCLA, 42 U.S.C. §9604(e)(5). This statutory provision authorizes EPA to seek the imposition of penalties of up to \$37,500 per day of noncompliance. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. §1001. The information the County provides may be used by EPA in administrative, civil, or criminal proceedings.

Some of the information EPA is requesting may be considered by the County to be confidential. Please be aware that the County may not withhold information upon that basis. If the County wishes EPA to treat the information confidentially, it must advise EPA of that fact by following the procedures outlined in Enclosure A, including the requirement for supporting its claim for confidentiality.

This request for information is not subject to review by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act because it is not an "information collection request" within the meaning of 44 U.S.C. §§3502(3), 3507, 3512, and 3518(c)(1). See also, 5 C.F.R. §§1320.3(c), 1320.4, and 1320.6(a).

We encourage the County to give this matter its immediate attention and request that it provide a complete and truthful response to this information request within thirty (30) calendar days of its receipt of this letter. EPA is committed to moving forward with its investigation, and extensions of time for responses will only be granted upon a showing of good cause and for no more than 30 days. If the County anticipates that it will need an extension, please request one as soon as possible. Requests for extensions made at or near the due date will not be viewed favorably by EPA. The County's response to this letter should be made in writing and signed by you or a duly authorized representative of the County. If some or all of the requested information has previously been provided to EPA, the County may incorporate that information by referencing the date of the earlier response and the information contained therein that is responsive to the current information request.

The County's response should be signed by a duly authorized representative of the County of Riverside, California, and should include the appropriate name, address, and telephone number of the person to whom EPA should direct future correspondence in regard to this information request.

The County's response to the information request should be directed to:

Keith Olinger, Enforcement Officer (SFD-7-5)  
U.S. EPA, Region 9  
75 Hawthorne St.  
San Francisco, CA 94105

If the County has any questions regarding this letter, please contact Keith Olinger at (415) 972-3125 or [olinger.keith@epa.gov](mailto:olinger.keith@epa.gov). Questions regarding the Site's cleanup status should be directed to the Remedial Project Manager, Julie Santiago-Ocasio, at (415) 972-3525 or [santiago-ocasio.carmen@epa.gov](mailto:santiago-ocasio.carmen@epa.gov). Questions regarding legal matters can be directed to Andrew Helmlinger at (415) 972-3904 or [helmlinger.andrew@epa.gov](mailto:helmlinger.andrew@epa.gov). Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Kathi Moore". The signature is written in a cursive, flowing style.

Kathi Moore, Manager  
Case Development Cost Recovery Section  
Superfund Division

Enclosures (3):

Attachment A (Instructions and Definitions)  
Attachment B (Information Request)  
May 1, 2000 Agreement of Purchase and Sale

## ENCLOSURE A: INSTRUCTIONS AND DEFINITIONS

### Instructions:

1. Answer Every Question Completely. A separate response must be made to each of the questions set forth in this information request. For each question contained in this letter, if information responsive to this information request is not in the County's possession, custody, or control, please identify the person(s) from whom such information may be obtained.
2. Number Each Answer. When answering the questions in Enclosure B, please precede each answer with the corresponding number of the question and subpart to which it responds.
3. Number Each Document. For each document produced in response to this information request, indicate on the document, or in some other reasonable manner, the number of the question to which it corresponds.
4. Provide the Best Information Available. Provide responses to the best of the County's ability, even if the information sought was never put down in writing or if the written documents are no longer available. The County should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available will be considered non-compliance with this information request.
5. Identify Sources of Answer. For each question, identify (see Definitions) all the persons and documents that the County relied on in producing its answer.
6. Continuing Obligation to Provide/Correct Information. If additional information or documents responsive to this information request become known or available to the County after it responds to this information request, EPA hereby requests pursuant to CERCLA Section 104(e) that the County supplement its response to EPA.
7. Scope of Request. The scope of this request includes all information and documents independently developed or obtained by research on the part of the County, its attorneys and consultants or any of their agents, consultants or employees.
8. Confidential Information. The information requested herein must be provided even though the County may contend that it includes confidential information or trade secrets. The County may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§9604(e)(7)(E) and (F), and Section 3007(b) of RCRA, 42 U.S.C. §6927(b), and 40 C.F.R. §2.203(b). If the County makes a claim of confidentiality for any of the information it submits to EPA, it must prove that claim. For each document or response the County claims as confidential, it must separately address the following points:
  - (a) Clearly identify the portions of the information alleged to be entitled to confidential treatment;

- (b) Identify the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- (c) Identify measures taken by the County to guard against the undesired disclosure of the information to others;
- (d) Explain the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
- (e) Provide pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
- (f) State whether the County asserts that disclosure of the information would likely result in substantial harmful effects to the County's competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.
- (g) To make a confidentiality claim, please stamp, or type, "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise nonconfidential documents should be clearly identified. The County should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit the County's response so that all nonconfidential information, including any redacted versions of documents, are in one envelope and all materials for which the County desires confidential treatment are in another envelope.
- (h) All confidentiality claims are subject to EPA verification. It is important that the County satisfactorily show that it has taken reasonable measures to protect the confidentiality of the information and that it intends to continue to do so, and that the information is not and has not been obtainable by legitimate means without the County's consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e). If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to the County.

9. Disclosure to EPA's Authorized Representatives. Information that the County submits in response to this information request may be disclosed by EPA to authorized representatives of the United States pursuant to 40 C.F.R. § 2.310(h) even if the County asserts that all or part of it is confidential business information. The authorized representatives of EPA to which EPA may disclose information contained in the County's response are as follows:

Toeroek Herndon Joint Venture  
EPA Contract Number EP-R9-12-02

Department of Toxic Substances Control/California  
Environmental Protection Agency

Toeroek & Associates, Inc.  
EPA Contract Number BPA-11-W-001

CH2M Hill, Inc.  
EPA RAC Contract Number EP-S9-08-04

SAIC (subcontractor under Toeroek & Associates, Inc.)  
EPA Contract Number BPA-11-W-001

Any subsequent additions or changes in EPA contractors who may have access to the County's response to this information request will be published in the Federal Register.

This information may be made available to these authorized representatives of EPA for any of the following reasons: to assist with document handling, inventory, and indexing; or to assist with document review and analysis for verification of completeness; or to provide expert technical review of the contents of the response. Pursuant to 40 C.F.R. § 2.310(h), the County may submit comments on EPA's potential disclosure of any confidential information to its authorized representatives within the thirty (30) calendar day period in which the response is due.

10. Objections to Questions. If the County has objections to some or all of the questions contained in the information request, it is still required to respond to each of the questions.

Definitions Applicable to Enclosure B, Information Request:

1. Any reference to the "County" means Riverside County, California, and should be interpreted to include, but not be limited to, all current and former departments and agencies, officials, officers, board of supervisors, commissions, managers, employees, contractors, assigns, and agents.
2. The term "person" shall include any individual, firm, corporation, unincorporated association, partnership, consortium, trust, joint venture, State, municipality, commission, or political subdivision of a State.
3. The term "waste" or "wastes" shall mean and include trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, and pollutants or contaminants, whether solid, liquid or sludge.
4. The term "hazardous waste" shall have the same definition as that contained in Section 1004(5) of RCRA.
5. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA, and includes any mixtures of such hazardous substances with any other substances, including mixtures of hazardous substances with petroleum products or other nonhazardous substances.
6. The term "release" has the same definition as that contained in Section 101(22) of CERCLA, and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers and other closed receptacles containing any hazardous substance or pollutant or contaminant.

7. The term “pollutant or contaminant” shall have the same definition as that contained in Section 101(33) of CERCLA and include any mixtures of such pollutants and contaminants with any other substance including petroleum products.
8. The term “materials” shall mean all substances that have been generated, treated, stored, or disposed of or otherwise handled at or transported to the Site including, but not limited to, all hazardous substances, pollutants or contaminants.
9. The term “documents” includes any written, recorded, computer generated, or visually or aurally reproduced material of any kind in any medium in the County’s possession, custody, or control or known by it to exist, including originals, all prior drafts, and all non-identical copies.

## **ENCLOSURE B: INFORMATION REQUEST**

EPA understands that responding to this Request will likely involve seeking information from various County departments and agencies, including, but not limited to, the Clerk and Recorder's Office, Riverside Economic Development Agency (Real Estate division), and Transportation Land Management Agency. EPA asks that this Request be forwarded to all county departments and agencies that may have information that is responsive to this Request.

1. State the full legal name, address, telephone number, position(s) held by, and tenure of the individuals answering any of the questions below on behalf of the County, as well as the County department or agency with which each individual is associated.
2. Identify the individuals who are or were responsible for environmental matters for that certain real property located in Riverside County, California, and assigned assessor parcel numbers 173-170-001, 173-170-003 and 173-170-014 (the "Property") since the County acquired the Property. For each individual responsible for environmental matters, provide his/her full name, current or last known address, current or last known telephone number, position titles, and the dates each individual held such position.
3. Describe the present uses for the Property. Provide a scaled map of the Property, including the locations of significant buildings, equipment, storage locations or bunkers, and geographical features.
4. Identify the dates the County has owned the Property. Provide a copy of the title documentation evidencing the County's ownership of the Property, a list of any historical assessor parcel numbers, the street addresses associated with each parcel, and a map or maps showing the locations and boundaries of all parcels (both current and historical) comprising the Property.
5. For the period of time during which the County has owned the Property, provide the name, address, and phone number of any tenant, lessee or contractor. Identify the time period of each tenant's, lessee's and contractor's operations at the Property and briefly describe the type of operations conducted or performed by each. Provide a copy of each lease, rental agreement, or any other document between the County and its tenants, lessees and contractors for operations at the Property.
6. Provide copies of any due diligence reports or property transfer assessments which relate to the County's acquisition of the Property.
7. Identify and provide last known contact information for all prior operators/occupants and owners of the Property. Provide the time period of each party's operations and/or ownership, and describe the type of operations each conducted at the Property.
8. Information provided to EPA indicates that TDY Industries (formerly known as Teledyne Industries) and/or its affiliated companies (collectively, "Teledyne") previously operated at the Property from about 1965 to 1971 as an ordnance manufacturer. To the best of your knowledge, provide the following information:



- a. A detailed description of the types of operations conducted by Teledyne at the Property;
  - b. All documentation in the County's possession that relates to Teledyne's operations and ownership of the Property, including maps showing the locations of Teledyne's operations, all chemical and waste storage areas, and the areas where the testing of any rocket fuels, propellants or explosives was conducted; and
  - c. If Teledyne operated outside of the Property, as previously defined, a description of the location of these operations, the type of operations conducted in this area, and maps showing the locations of Teledyne's operations in this area.
9. Provide copies of all applications, permits, hazardous material business plans, chemical inventory forms, and all other documents submitted to the County or issued by the County, both originals and updates, which related to Teledyne's operation of the Property, as well as the chemicals and hazardous substances used by Teledyne at the Property.
10. Please identify all leaks, spills, or other releases into the environment of any hazardous substances or pollutants or contaminants that have occurred at or from the Property. In addition, identify and provide supporting documentation of:
  - a. The date each release occurred;
  - b. The cause of each release;
  - c. The amount of each hazardous substance, waste, or pollutant or contaminant released during each release;
  - d. Where each release occurred and what areas were impacted by the release; and
  - e. Any and all activities undertaken in response to each release, including the notification of any other local, state, or federal government agencies about the release.
11. Provide complete copies of all sampling and investigation reports for the Property that contain laboratory or field analyses of the soil quality and water quality of the aquifers, mine water, surface water, groundwater, tailing pond discharges and receiving streams. Provide all attachments and amendments to each report, including all figures and maps showing the sampling locations.
12. State whether any fuels, propellants, explosives or other substances or devices that were used by Teledyne or other former operators are still stored at the Property, and whether any bunkers, magazines or other storage locations remain at the Property. Indicate on a map the current storage locations of these substances and devices.
13. State, to the best of your knowledge, whether there has been any remediation of the Property, and if so, provide documentation describing the remediation activities.
14. EPA has obtained a copy of the May 1, 2000 Agreement of Purchase and Sale for the Property between TDY Industries, Inc. (f/k/a Teledyne Industries, Inc.) and The Trust for Public Land. This Agreement states that the County would be provided copies of certain documents for its review and approval of this transaction. A copy of the May 1, 2000 Agreement of Purchase and Sale is attached hereto (refer to Sections 2.2, 2.6(c), 3.2, and 6.4). Provide complete copies of the following:

- a. Preliminary Title Report for the property from First American Title Insurance Company (Order No. 2141425), along with copies of all vesting documents and other documents referred to in the title report as exceptions;
  - b. All documents listed in Section 5.2 of the Agreement that were to be provided by TDY Industries, Inc. to the Buyer and were defined collectively as “Property Information”; and
  - c. The full narrative written appraisal of the fair market value of the Property prepared by Lance Dore, M.A.I. for the Buyer.
15. In an email dated August 12, 2012, the County’s Economic Development Agency provided to EPA a copy of an Environmental Indemnity Agreement dated October 4, 2001 between TDY Industries, Inc. and The Trust for Public Land relating to the Property. This Environmental Indemnity Agreement makes reference to a Phase I Assessment report that was not included with the County’s response.
- a. Provide a complete copy, including all attachments and amendments thereto, of the Phase I Environmental Site Assessment and Geophysical Survey of the Property dated October 31, 2000 and February 2001, prepared by Snyder Consulting; and
  - b. State whether a Phase II Assessment was ever conducted for the Property and, if so, provide a complete copy of this report.

**AGREEMENT OF PURCHASE AND SALE**

This is an Agreement, dated May 1, 2000 (the "Agreement") between TDY INDUSTRIES, INC., A California corporation, formerly known as TELEDYNE INDUSTRIES, INC., a California corporation ("Seller") and THE TRUST FOR PUBLIC LAND, a California nonprofit public benefit corporation ("Buyer").

**RECITALS****A. The addresses and telephone numbers of the parties are:****SELLER:**

TDY Industries, Inc.  
1025 West 190th Street, Suite 425  
Gardena, CA 90248-4318  
Att.: Corporate Real Estate Director  
Tel: (310) 354-2662  
Fax: (310) 354-2664

**BUYER:**

The Trust for Public Land  
Western Regional Office  
116 New Montgomery Street  
Third Floor  
San Francisco, CA 94105  
Att.: Tily Shue, Esq.  
Tel: (415) 495-5660  
Fax: (415) 495-0541

Copies of any notice to Seller should also be sent to:

Jon D. Walton  
Senior Vice President, General  
Counsel and Secretary  
Allegheny Technologies Incorporated  
1000 Six PPG Place  
Pittsburgh, PA 15222  
Tel: (412) 394-2836  
Fax: (412) 394-3010

Copies of any notice to Buyer should also be sent to:

The Trust for Public Land  
Western Regional Office  
116 New Montgomery Street  
Third Floor  
San Francisco, CA 94105  
Att.: Jonathan Walker  
Tel: (415) 495-5660  
Fax: (415) 495-0541

**B. Seller is the owner of certain real property, located in Riverside County, California, described in Exhibit A attached to this Agreement. That real property, together with all improvements, fixtures, timber, water, oil, gas and minerals located in and on it, and all rights appurtenant to it, including but not limited to timber rights, water rights, grazing rights, access rights and oil, gas and mineral rights, will be referred to in this Agreement as the "Property." The Property is approximately 185 acres and is designated as assessor parcel numbers 173-170-001-0, 173-170-003-2 and 173-170-014-2.**

C. The parties intend that by this purchase and sale the Property will be preserved and used eventually for habitat conservation land with limited public access. However, Buyer makes no representation that its efforts to secure eventual acquisition of the Property by the County of Riverside will succeed.

D. Seller acknowledges that Buyer is entering into this Agreement in its own right and that Buyer is not an agent of any governmental agency or entity.

E. Buyer is a conservation organization having among its purposes the acquisition on behalf of the public of open space, scenic and recreational lands. Buyer is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and is included in the "Cumulative List of Organizations described in Section 170(c) of the Internal Revenue Code" published by the Internal Revenue Service. Buyer is not a private foundation within the meaning of Section 509(a) of the Internal Revenue Code.

F. If Seller intends that the difference between the purchase price and fair market value will be a charitable contribution to Buyer, Seller will obtain independent tax counsel and be solely responsible for compliance with the gift value substantiation requirements of the Internal Revenue Code. Seller acknowledges that Buyer makes no representation as to the tax consequences of this transaction.

#### THE PARTIES AGREE AS FOLLOWS:

1. Effective Date and Term. This Agreement will be effective as of the date this Agreement is fully signed by the parties (the "Effective Date").

2. Purchase Terms.

2.1 Price. Seller agrees to sell the Property to Buyer for a purchase price of Four Hundred Thousand Dollars (\$400,000) (the "Purchase Price").

2.2 Appraisal. Buyer has contracted with Lance Doré, M.A.I. for a full narrative written appraisal ("Appraisal") of the fair market value ("FMV") of the Property taking into consideration that one of the highest and best use of the Property is habitat mitigation land due to the restrictive covenant which will be placed on the Property at the close of escrow more particularly described in Section 3.3. It is a condition to Buyer's obligations under this Agreement that the Appraisal be approved by the County of Riverside, the public agency to which Buyer intends to convey the Property (the "County").

2.3 Deposit. Within ten (10) days of the Buyer's receipt of a fully executed copy of this Agreement, Buyer shall deposit into an interest bearing, federally insured account with the Escrow Holder (as defined in Section 4.1 below) the sum of Ten Thousand Dollars (\$10,000.00) (the "Deposit"). All interest earned on the Deposit

will be credited toward the Purchase Price of the Property at close of escrow. Except as provided in Section 2.4 below or elsewhere herein, the Deposit shall be non-refundable.

**2.4    Return of Deposit.** The Deposit shall be returned to Buyer if:

(a) the sale of the Property is not completed because of Seller's failure, refusal or inability to perform any of Seller's material obligations under this Agreement;

(b) Buyer chooses to terminate this Agreement because any of Seller's representations cease to be true, or any of Seller's warranties or promises are breached (as provided in Section 8);

(c) Buyer chooses to terminate this Agreement because of condemnation of or damage to the Property (as stated in Sections 3.7 and 6.5);

(d) Buyer chooses to terminate this Agreement because Seller and Buyer have been unable to agree on the terms of the restrictive covenant described in Section 3.3;

(e) Buyer chooses to terminate this Agreement because Seller and Buyer have been unable to agree on the terms of the indemnity agreement described in Section 6.6;

(f) Buyer chooses to terminate this Agreement because Buyer's conditions precedent to closing are not satisfied (as provided in Section 2.6); or

(g) Buyer chooses to terminate this Agreement because Seller did not approve the scope of services for Buyer's proposed Phase II Assessment as provided in Section 6.2.

**2.5    Method of Payment.** The Purchase Price will be payable in cash on close of escrow after crediting the Deposit paid, as stated in Section 2.3.

**2.6    Conditions Precedent to Close of Escrow.** Buyer's obligation to consummate the transaction contemplated herein shall be contingent upon the occurrence or satisfaction of the following:

(a) Buyer's receipt of the approval of the transaction which is the subject of this Agreement by the Executive Committee of the Board of Directors of Buyer and authorization to acquire the Property, which authorization is subject to said Committee's sole discretion, and all of the conditions to which said approval is subject have been satisfied or waived.

(b) Buyer's approval of all due diligence matters, including, but not limited to: (i) title matters described in Section 3.2; (ii) the physical and environmental condition of the Property; (iii) the suitability of the Property for Buyer's intended purpose as provided in Section 6.3; and (iv) all other reviews described in Section 5 and elsewhere in this Agreement.

(c) The County's: (i) acceptance of the condition of the title of the Property; (ii) review and approval of all reports and studies respecting the environmental condition of the Property; (iii) determination that the Property is suitable for its intended use; (iv) review and approval of the Appraisal; (v) the execution of a written purchase agreement for the Property between Buyer and County; (vi) the satisfaction or waiver of all conditions to the County's obligation to purchase the Property; and (vii) the County's deposit with the Escrow Holder of funds sufficient to acquire the Property from Buyer which funds will be used to pay the Purchase Price to Seller.

(d) Seller's execution of an indemnity agreement, as described in Section 6.6, in favor of Buyer and its successors and assigns, in form and substance mutually agreeable to Buyer and Seller and satisfactory to County, with respect to any and all environmental contamination of the Property existing on the date of Close of Escrow; except for releases unknown to the Seller which originated off-site and have migrated onto the Property.

(e) Buyer's and the County's review and approval of the restrictive covenant setting forth the restrictions on the use of the Property as habitat conservation land with limited public access.

(f) Buyer's determination that there is vehicular access to the Property suitable for its intended use

### **3. Title.**

**3.1 Deed.** Seller will convey to Buyer or Buyer's nominee, by grant deed, marketable, record, fee simple title to the Property.

**3.2 Title Exceptions.** Buyer is in receipt of a preliminary title report from First American Title Insurance Company (Order No. 2141425) and has ordered copies of the vesting documents and all of the documents referred to in the title report as exceptions (collectively, the "Title Report"). Title to the Property will be conveyed free and clear of all title defects, liens, encumbrances, deeds of trust and mortgage except the following (the "Permitted Exceptions"):

(a) a lien for nondelinquent real property taxes;

(b) the standard printed exceptions on the form of title insurance policy issued pursuant to Section 3.5; and

(c) any other matters approved by Buyer in writing. On or before the end of the Due Diligence Period, Buyer will advise Seller of the exceptions to title acceptable to Buyer and all other exceptions shall be deemed unpermitted (the "Unpermitted Exceptions"), which Seller will use its best efforts to remove by the close of escrow.

If Seller is unable or unwilling to remove any Unpermitted Exceptions, Buyer may, with respect to the Property:

(a) terminate this Agreement, in which case neither party will have any further obligation and/or liability to the other;

(b) defer the closing date for a period not to exceed thirty (30) days until any Unpermitted Exceptions are removed;

(c) proceed with the purchase of the Property, and accept a policy of title insurance containing the Unpermitted Exception(s).

**3.3 Restrictive Covenant.** Buyer and Seller acknowledge that there might exist on or under the Property potential soil and/or groundwater contamination. Therefore, the sale of the Property is subject to Seller's, Buyer's and the County's mutual acceptance of a restrictive covenant to be placed on the Property prior to Buyer's acquisition of the Property. In the event Seller, Buyer and the County cannot agree on the terms and conditions of a restrictive covenant, Seller and Buyer shall each have the right to terminate this Agreement, upon which the Deposit shall be promptly refunded to Buyer and Seller shall reimburse Buyer the cost of the Phase I Assessment (including a chain of title report and a geophysical survey obtained in connection therewith), not to exceed a total cost of \$5,000. Except for Seller's reimbursement of the aforesaid costs to Buyer, neither party shall thereafter have any further liability or obligation to the other.

Said restrictive covenant shall prohibit future use of the Property that would affect or disturb soils, sediments, surface water or groundwater on, at or under the Property including, but not limited to, construction and demolition activities, and require the limitation and control of public access to the Property. Such restrictive covenant will not, however, preclude Buyer from conducting routine maintenance and land management activities (including the capture by barriers and manual or mechanical redistribution of surface sands) that would be conducted on the Property in managing it as public open space and habitat land. Such restrictive covenant shall run with the land and be binding upon Buyer's successors and assigns and may only be removed if Buyer, or Buyer's successors or assigns, assume in a written agreement with Seller, or Seller's successors or assigns, full liability for any and all environmental conditions of, and hazardous substances on, the Property.

**3.4 Possession.** Seller will deliver possession of the Property to Buyer at close of escrow, free and clear of any persons in possession of the Property.

**3.5 Title Insurance.** Seller will provide Buyer with an ALTA standard coverage owner's policy of title insurance in the full amount of the Purchase Price insuring that title to the Property is vested in Buyer upon close of escrow, and subject only to the Permitted Exceptions.

**3.6 Seller's Promise Not to Encumber Property.** Except as allowed by this Agreement or approved in advance in writing by Buyer, during the term of this Agreement, Seller promises not to:

(a) make or permit to be made, extend or permit to be extended, any leases, contracts, options or agreements affecting the Property;

(b) voluntarily cause or permit any lien, encumbrance, mortgage, deed of trust, right, restriction or easement to be placed upon or created with respect to the Property; or

(c) voluntarily cause or permit any mortgage, deed of trust or other lien to be foreclosed upon due to Seller's actions or omissions, including failure to make a required payment or failure to obtain any required consent.

**3.7 Condemnation.** In the event of the taking of all or any part of the Property by eminent domain proceedings, or the commencement of such proceedings prior to closing, Buyer will have the right, at its option, to terminate this Agreement by written notice to Seller, in which case neither party shall have any further obligation and/or liability to each other, and the Deposit shall be returned to Buyer. If Buyer does not terminate the Agreement, then Buyer may either: (a) proceed to close with the Purchase Price reduced by the total of any awards or other proceeds received or to be received by Seller as a result of such proceedings, or (b) proceed to close with an assignment by Seller of all Seller's right, title and interest in and to all such awards and proceeds. Seller will promptly notify Buyer in writing of any eminent domain proceedings affecting the Property.

**4. Escrow and Closing.**

**4.1 Escrow Holder.** The Parties shall open an escrow account with First American Title Insurance Company, 345 California Street, Suite 2400, San Francisco, CA, 94104 Telephone (415) 989-1300, or such other third party as Buyer and Seller shall jointly appoint to serve as the escrow holder (the "Escrow Holder"), for the purpose of holding the Deposit and closing the purchase and sale of the Property. Escrow shall close thirty (30) days after the satisfaction of the Conditions set forth in Section 2.6 ("Close of Escrow").



**4.2 Closing Costs and Prorations.**

**(a) Seller will pay the following closing costs:**

- (i) prorated real property taxes as of the close of escrow based upon the latest tax bills;**
- (ii) half the escrow fee;**
- (iii) the documentary tax or real property transfer tax and any recording fees for the deed;**
- (iv) the premium for the ALTA standard form of title insurance coverage as stated in Section 3.5;**
- (v) all recording fees;**
- (vi) any costs of removing Unpermitted Exceptions to title; and**
- (vii) any additional taxes, penalties and interest, including compensatory or roll back taxes on the Property due and payable as a result of the conveyance to Buyer.**

**(b) Buyer will pay the following closing costs:**

- (i) prorated real property taxes as of the close of escrow based upon the latest tax bills; and**
- (ii) half the escrow fee.**

**Other fees and charges will be allocated according to custom of Riverside County.**

**4.3 Supplemental Taxes. If a supplemental property tax assessment is currently due and payable, it will be paid by Seller prior to close of escrow. Seller will also be responsible for paying any supplemental property taxes which are assessed after the date of closing as a result of a sale or construction prior to the close of escrow.**

**5. Due Diligence Inquiry.**

**5.1. Due Diligence Period. Subject to Section 5.2 below, Buyer will have a due diligence period of seventy five (75) days to complete its feasibility inspections and due diligence review of the Property (including, but not limited to, the review of title described in Section 3.2 above, the review of Property Information described in Section 5.2 below, review and determination of the physical and environmental condition of the Property and whether the Property is suited for Buyer's intended use as provided in Section 6 below (the "Due Diligence Period"). The Due Diligence Period shall be increased by another sixty (60) days if the results of Buyer's Phase I Report indicate, in Buyer's sole judgment, that further environmental testing is necessary to determine the extent of Hazardous Substances on or beneath the Property and if the Seller approves of further environmental testing in accordance with Section 6.2. The Due Diligence Period shall commence on the date upon which Buyer receives the last of the following: (a) a fully executed Agreement; and (b) a Title Report evidencing Seller's ability to convey marketable and insurable title to the Property as described in Section 3.2 above.**

**5.2 Review of Property Information.** Seller acknowledges that Buyer requested that Seller provide to Buyer copies of any and all leases, licenses, easements, deed restrictions, side letters and any other documents encumbering the Property now or that will encumber the Property in the future, whether oral or in writing and a schedule reflecting any amount set aside as prepaid rent, security deposits, etc., and any existing delinquencies in the payment of rentals or defaults of, and other terms or conditions under any lease documents; all existing soils and environmental reports, all existing engineering reports and surveys; copies of all real estate tax bills and tax receipts for the last three (3) years; current title report and insurance policy with copies of all the underlying documents; and current recordable legal descriptions accompanying a survey if available (the "Property Information"). Seller agrees to provide the Property Information in its possession, custody or control to Buyer within fifteen (15) days of the Effective Date or as soon as reasonably practical after such information is located. Buyer's Due Diligence Period shall be extended automatically, if necessary, to give Buyer a fifteen (15) day review period with respect to any item of Property Information provided by Seller under this Section 5.2. In the event this Agreement is terminated by either party, Buyer agrees to return to Seller all copies of Seller's Property Information that has been provided to Buyer.

**6. Condition of Property.**

**6.1 Seller's Promise to Maintain Property.** During the term of this Agreement, Seller promises not to:

(a) remove or knowingly permit the removal of any vegetation, soil or minerals from the Property or disturb or permit the disturbance of the existing contours and/or other natural features of the Property, or

(b) cause or knowingly permit any dumping or depositing of any materials on the Property, including, without limitation, garbage, Hazardous Substances, construction debris or solid or liquid wastes of any kind.

Seller agrees to deliver the Property at the close of escrow in the same order and condition as on the Effective Date of this Agreement, except as otherwise provided in this Agreement.

**6.2 Right to Inspect Property.**

(a) **Property Inspection.** Except as to environmental matters which are governed by subparagraph (b) below, Buyer through its employees and agents may enter upon the Property during the Due Diligence Period to conduct such non-invasive inspections, tests and investigations as Buyer thinks appropriate to determine if any and all aspects of the Property are suitable for Buyer's intended use. Any invasive (e.g., soil sampling)

inspection, test or investigation must be approved by Seller, such approval not to be unreasonably withheld. For purposes of conducting any property inspection, Buyer shall give Seller forty-eight (48) hours prior notice so that Seller may have a representative present during any Property inspection by Buyer, its employees or agents.

(b) **Environmental Inspection.** Buyer has informed Seller that Buyer will contract with an environmental consulting company to obtain, at Buyer's sole expense, a Phase I Environmental Assessment (the "Phase I Assessment") of the Property. Buyer acknowledges that commencement of the Phase I Assessment is subject to the Seller's prior approval of the scope of services for such Phase I Assessment. The scope of services for the Phase I Assessment includes the services and a geophysical survey identified in Exhibit B attached hereto. Seller hereby acknowledges its approval of such scope of services. Buyer shall provide Seller a copy of the Phase I Assessment and Seller shall have five (5) days after receipt thereof to terminate this Agreement by written notice to Buyer. Seller shall waive such right, if written notice is not so provided. In the event Seller terminates this Agreement, Buyer's Deposit shall be promptly refunded to Buyer and Seller shall reimburse Buyer the cost of the Phase I Assessment (including the cost of the chain of title report and a geophysical survey obtained in connection therewith), not to exceed a total cost of \$5,000. Except for Seller's reimbursement of the aforesaid costs to Buyer, neither party shall thereafter have any further obligation or liability to the other.

Should Buyer determine, as a result of its review of the Phase I Assessment, that it wishes to perform additional investigation, inspection or testing beyond the approved Phase I scope of services (e.g., a Phase II Assessment), Buyer shall obtain Seller's approval of the scope of services for such Phase II Assessment, which approval may be withheld, fully or partially, in Seller's sole and absolute discretion. Buyer agrees that the scope of services for such Phase II Assessment submitted to Seller for approval must include: (i) the nature of testing and location of any areas of any proposed surface investigation not included in the Phase I Assessment and any proposed subsurface investigation; (ii) the chemical analyses proposed to be performed on any sampling; (iii) a description of proposed building materials to be tested and required building material quantities; (v) a copy of the Phase I report; and (iv) any other items reasonably requested by Seller.

Seller shall have the right, but not the obligation, to perform any Phase II study on the Property at Seller's sole cost and expense, at Seller's option. Seller retains the right not to disclose the results of such Phase II study to Buyer, in which case, Buyer may terminate the Agreement, in which case the Deposit paid by Buyer will promptly be refunded and Seller shall reimburse Buyer the cost of the Phase I Assessment (including the cost of a chain of title report and a geophysical survey obtained in connection therewith), not to

exceed a total cost of \$5,000. Except for Seller's reimbursement of the aforesaid costs to Buyer, neither party shall thereafter have any further obligation or liability to the other.

Upon Seller's partial or full approval of a Phase II Assessment scope of services, Buyer may proceed with conducting said approved Phase II at Buyer's sole expense within the time period set forth in Section 5.1.

In the event that Seller and Buyer cannot reach an agreement upon the Phase II Assessment scope of services, then either party shall have the right to terminate this Agreement upon which Buyer's Deposit shall be returned to Buyer and Seller shall reimburse Buyer the cost of the Phase I Assessment (including the cost of a chain of title report and a geophysical survey obtained in connection therewith), not to exceed a total cost of \$5,000. Except for Seller's reimbursement of the aforesaid costs to Buyer, neither party shall thereafter have any further obligation or liability to the other.

Seller agrees to fully cooperate with Buyer's environmental consultant by providing restricted and limited interviews and documents, plans, data and other information in Seller's possession, custody or control relevant to the scope of the Phase I Assessment and any subsequently approved Phase II Assessment scope of services.

While on the Property for purposes of conducting any Environmental Inspection, or a portion thereof, Buyer and its agents shall at all times be accompanied by Seller's representatives as specified by Seller.

(c) Indemnification. Buyer shall repair any damage to the Property made in connection with Buyer's (or its contractors, agents, employees or invitees) Property Inspection or Environmental Inspection and shall restore the Property to its condition as of the date hereof. In connection with said inspections, Buyer shall indemnify, defend and hold harmless Seller, its corporate affiliates, employees and officers and directors from and against any claim, liability, loss, cost, expense or damage to the Property including, without limitation, reasonable attorneys' fees arising or accruing in connection with such inspection, including, without limitation, injury to persons or damage to the Property. Notwithstanding anything to the contrary express or implied herein, Buyer's covenants and indemnification of Seller set forth in this Paragraph shall survive the close of escrow or the earlier termination of this Agreement.

**6.3 Unacceptable Physical and Environmental Conditions; Property not suited for Buyer's Intended Use.** Should Buyer determine, in its sole discretion, based on its investigation of the Property, that the physical or environmental conditions on the Property are unacceptable or that the Property is not suited for Buyer's intended use, Buyer may choose to terminate this Agreement, in which case

the Deposit paid by Buyer will promptly be refunded and neither party shall thereafter have further obligation or liability to the other.

**6.4 Disclosure.** Buyer agrees to keep confidential and not to knowingly disclose to any person or entity, other than the County and Buyer's employees, consultants performing under this Agreement, and its legal and financial advisors, without the prior express written consent of Seller, any and all data regarding the Property (including, without limitation, the sales price) or information not previously known to or generated by Buyer, or furnished to Buyer by Seller in the course of performance under this Agreement, and any information concerning the conditions, including environmental conditions of the Property; provided, however, that this provision shall not apply to data or information which: (i) are in the public domain, or which were acquired by Buyer independently from third parties not under any obligation to Seller to keep such information confidential or (ii) Buyer is informed by its legal counsel (whether in-house attorneys or outside counsel) that Buyer is required by law to disclose. Buyer agrees to provide this confidentiality provision to all consultants, contractors or employees to whom confidential information might be disclosed and shall require that all such consultants, contractors and employees be bound by this confidentiality provision. This paragraph shall supersede any previous confidentiality agreement entered into between Buyer and Seller with respect to the Property and shall survive the Close of Escrow or the earlier termination of this Agreement.

Notwithstanding anything herein to the contrary, Seller acknowledges that Buyer expects to provide the County with the Appraisal, the Phase I Assessment report and any Phase II Assessment report to obtain its approval thereof, and Buyer will request that the County keep the Appraisal and the Phase I Assessment report and the Phase II Assessment report confidential to the greatest extent possible. Seller acknowledges that the County may be unable to sign a confidentiality agreement. Buyer agrees to disclose only those terms and information necessary to allow the County to perform its due diligence of the Property.

**6.5 Risk of Loss.** All risk of loss will remain with Seller until closing. If the Property is destroyed or damaged prior to close of escrow, Buyer may terminate this Agreement in which case the Deposit shall be promptly refunded to Buyer and neither party shall thereafter have any further liability or obligation to the other. Seller shall notify Buyer promptly as to any damage to the Property.

**6.6 Indemnity Agreement.** Seller will provide Buyer at close of escrow with an indemnity agreement in favor of Buyer and its successors and assigns, in form and substance which has been deemed mutually agreeable to Buyer and Seller and satisfactory to County no later than ten (10) business days after the Effective Date, providing indemnification for any and all loss, damage, liabilities or obligations of Buyer or its successors and assigns or claims (including, without limitation, claims based on violations of Environmental Laws (as defined in Section 7.13 below) against Buyer or its successors and assigns as a result of a Hazardous Substance

(as defined in Section 7.12 below) or condition on or beneath the Property existing as of the date of close of escrow. Seller's obligations under such indemnity shall be backed by security acceptable to each of Buyer and County. If there is a conflict between the indemnity agreement and this paragraph, the indemnity agreement shall prevail. In the event Seller, Buyer and the County cannot agree on the terms and conditions of an indemnity agreement no later than ten business days from the Effective Date, Seller and Buyer shall each have the right to terminate this Agreement, upon which the Deposit shall be promptly refunded to Buyer and Seller shall reimburse Buyer the cost of the Phase I Assessment (including the cost of a chain of title report and the geophysical survey obtained in connection therewith), not to exceed a total cost of \$5,000. Except for Seller's reimbursement of the aforesaid costs to Buyer, neither party shall thereafter have any further obligation or liability to the other. The indemnification agreement shall run in favor of Buyer, its successors or assigns, and their officers, directors, employees and agents.

**7. Seller's Representations and Warranties.** Seller represents and warrants the following:

**7.1** Seller has full power and authority to enter into this Agreement and to sell, transfer and convey all right, title and interest in and to the Property in accordance with this Agreement.

**7.2** There is no tenant or occupant in possession of any part of the Property, and Seller shall not enter into any tenancy or occupancy agreements during the term of this Agreement.

**7.3** To the best of Seller's knowledge, there is no suit, action, arbitration, legal, administrative or other proceeding or inquiry pending or threatened against the Property, or pending or threatened against Seller which could affect Seller's title to the Property, authority to convey the Property, affect the value of the Property, or subject an owner of the Property to liability.

**7.4** Seller is not insolvent and has no intention of filing for protection under the bankruptcy laws of the United States.

**7.5** To the best of Seller's knowledge, there are no encumbrances or liens against the Property, including, but not limited to, mortgages or deeds of trust or mechanic's or materialman's liens now asserted against the Property for work performed or commenced prior to the date hereof for or on behalf of Seller, except as stated in the Title Report, and Seller is not in default of any obligation under any mortgage or deed of trust affecting the Property.

**7.6** To the best of Seller's knowledge, there is no lease, license, permit, option, right of first refusal or other agreement, written or oral, which affects the Property or any portion thereof.

**7.7 To the best of Seller's knowledge, there are no encroachments by third parties on the Property and Seller does not encroach upon the property of any third party.**

**7.8 To the best of Seller's knowledge, neither the execution, delivery or performance of this Agreement will constitute a breach or default under any agreement to which Seller is bound and/or to which the Property is subject, including any deed of trust and/or mortgage.**

**7.9 To the best of Seller's knowledge, there are no and have been no:**

**(a) Actual or impending public improvements or private rights or actions which will result in the creation of any liens upon the Property, including public assessments; or**

**(b) Uncured notices from any governmental agency notifying Seller of any violations of law, ordinance, rule or regulation which would affect the Property.**

**7.10 To the best of Seller's knowledge, there has been no transfer of title or construction of improvements on the Property since July 1, 1983 for which a supplemental property tax assessment has not been levied and paid.**

**7.11 Seller has disclosed to Buyer that there may be subsurface environmental contamination, including Hazardous Substances, on or under the Property due to its former use as a munitions and light armament plant. Seller has informed Buyer that it should not disturb the improvements on the Property or interfere with the subsurface of the Property in order to ensure human health and safety. Seller has no actual knowledge of any environmental contamination of the Property from the release of Hazardous Substances off-site.**

**7.12 The term "Hazardous Substance(s)" means any substance which is (1) defined as a hazardous substance, hazardous material, hazardous waste, pollutant or contaminant under any Environmental Law, (2) a petroleum hydrocarbon, including crude oil or any fraction thereof, (3) hazardous, toxic, corrosive, flammable, explosive, infectious, radioactive, carcinogenic, or reproductive toxicant, (4) regulated pursuant to any Environmental Law(s), or (5) any pesticide regulated under state or federal law.**

**7.13 The term "Environmental Law(s)" means each and every federal, State of California, and local law, statute, ordinance, regulation, rule, judicial or administrative order or decree, permit, license, approval, authorization or similar requirement of each and every federal, state and local governmental agency or other governmental authority, pertaining to the protection of human health and safety or the environment.**

**7.14 Under California Health & Safety Code Section 25359.7, any owner of nonresidential property who knows, or has reasonable cause to believe, that any release of a "hazardous substance," as defined in that Code Section, is located on or beneath the owner's property must disclose this fact in writing to any prospective purchaser before consummating the transaction. To the extent not otherwise disclosed in documents and information provided to Buyer, Seller agrees to deliver such notice to Buyer.**

**7.15 BUYER ACKNOWLEDGES THAT EXCEPT AS SET FORTH IN THIS SECTION 7, SELLER MAKES NO REPRESENTATIONS, WARRANTIES OR STATEMENTS CONCERNING THE CONDITION OF THE PROPERTY, THE VALUE OF THE SAME, THE IMPROVEMENTS THEREON, THE USE THAT CAN BE MADE OF THE PROPERTY OR ANYTHING CONCERNING THE SAME OTHER THAN WHAT IS SPECIFICALLY INCLUDED IN THIS SECTION 7. THE PROPERTY IS BEING SOLD "AS IS," "WHERE IS" AND "WITH ALL FAULTS" AS OF CLOSING, WITHOUT ANY REPRESENTATION OR WARRANTY, EXCEPT AS PROVIDED IN THIS SECTION 7, WHATSOEVER AS TO ITS CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, FREEDOM FROM CONTAMINATION BY HAZARDOUS SUBSTANCES, COMPLIANCE WITH ZONING OR OTHER LEGAL REQUIREMENTS OF ALL OR ANY PART OF THE PROPERTY, MERCHANTABILITY OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED, EXCEPT AS SET FORTH IN THIS SECTION 7. SELLER REPRESENTS AND BUYER ACKNOWLEDGES SELLER'S REPRESENTATION THAT SELLER HAS ONLY LIMITED KNOWLEDGE OF THE CONDITION OF THE PROPERTY. BUYER ACKNOWLEDGES THAT BUYER IS PURCHASING THE PROPERTY BASED SO ON BUYER'S OWN INDEPENDENT INVESTIGATIONS AND FINDINGS AND NOT IN RELIANCE, EXCEPT TO THE EXTENT OTHERWISE PROVIDED IN THIS AGREEMENT, ON ANY INFORMATION PROVIDED BY SELLER OR SELLER'S AGENTS OR CONTRACTORS. SELLER HAS MADE NO AGREEMENT TO ALTER, REPAIR OR IMPROVE ANY OF THE PROPERTY EXCEPT AS EXPRESSLY PROVIDED HEREIN. AND AS EXCEPT AS PROVIDED IN THE INDEMNITY AGREEMENT**

**8. Reliance. All Seller's representations, warranties and promises made in this Agreement, ("Representations", "Warranties" and "Promises") are material and are relied upon by Buyer. All Representations, Promises and Warranties will be considered to have been made or affirmed as of the close of escrow and will survive the close of escrow.**

**If, before the close of escrow, Seller discovers any information or facts that would materially change the accuracy of the Representations and/or Warranties and/or performance of the Promises, Seller will immediately give written notice to Buyer of those facts and information. If any Representation ceases to be true during the term of this Agreement or Seller has breached any Warranty or Promise, Seller will promptly remedy the problem, at Seller's sole cost and expense, upon receipt of notice by Buyer. If the problem is not remedied before close of escrow, Buyer may choose to either: (a) terminate this Agreement, in which case the Deposit paid by Buyer will promptly be refunded or (b) defer the closing date until the problem has**



been remedied. Buyer's choice in this regard will not constitute a waiver of Buyer's rights with respect to any loss or liability suffered as a result of a Representation not being true or a Warranty or Promise having been breached, nor will it constitute a waiver of any other remedies provided in this Agreement or by law or equity.

9. **Remedies Upon Default.** If Seller defaults in the performance of any of Seller's obligations under this Agreement, Buyer will, in addition to any and all other remedies provided in this Agreement or by law or equity, have the right of specific performance against Seller. If Buyer defaults in the performance of any of its obligations under this Agreement, Seller shall be entitled as its sole and exclusive remedy hereunder to the Deposit and any accrued and undisbursed interest, any other income earned thereon and Buyer shall be obligated to pay the cost of the Title Report and any outstanding escrow fees owing to Escrow Holder as a result of this transaction (the "Liquidated Damages Amount") as full liquidated damages for such default of Buyer, whereupon this Agreement shall be null and void and of no further force or effect.

IF THE SALE OF THE PROPERTY AS CONTEMPLATED HEREUNDER IS NOT CONSUMMATED SOLELY BECAUSE OF A DEFAULT UNDER THIS AGREEMENT ON THE PART OF THE BUYER, ESCROW HOLDER SHALL PROMPTLY PAY OVER TO SELLER THE LIQUIDATED DAMAGES AMOUNT AND ALL EXTENSION FEES PAID AND SELLER SHALL RETAIN SUCH SUMS AS LIQUIDATED DAMAGES. THE PARTIES ACKNOWLEDGE THAT SELLER'S ACTUAL DAMAGES IN THE EVENT OF A DEFAULT BY BUYER HEREUNDER WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. THEREFORE, THE PARTIES EXPRESSLY AGREE AND ACKNOWLEDGE THAT THE SUMS SPECIFIED HEREIN HAVE BEEN AGREED UPON, AFTER NEGOTIATION, AS THE PARTIES' REASONABLE ESTIMATE OF SELLER'S DAMAGES. THEREFORE, IF, AFTER SATISFACTION OR WAIVER OF ALL CONDITIONS PRECEDENT TO BUYER'S OBLIGATIONS UNDER THIS AGREEMENT, BUYER BREACHES THIS AGREEMENT AND WRONGFULLY FAILS TO COMPLETE THE PURCHASE OF THE PROPERTY AS PROVIDED HEREIN, SELLER SHALL BE ENTITLED TO LIQUIDATED DAMAGES IN THE AMOUNT SPECIFIED HEREIN. ON RECEIPT AND RETENTION BY SELLER OF SUCH SUMS, THIS AGREEMENT SHALL TERMINATE AND BUYER SHALL HAVE NO FURTHER OBLIGATION OR LIABILITY HEREUNDER (EXCEPT, TO THE EXTENT APPLICABLE, FOR THE INDEMNIFICATION FOR INSPECTIONS OF THE PROPERTY SET FORTH IN SECTION 6.2 HEREOF). THE PARTIES FURTHER ACKNOWLEDGE THAT THE SUMS SPECIFIED HEREIN HAVE BEEN AGREED UPON AS SELLER'S EXCLUSIVE REMEDY AGAINST BUYER IN THE EVENT OF DEFAULT ON THE PART OF BUYER.

10. **Indemnification.** Seller will indemnify, defend with counsel of Buyer's choice and hold harmless Buyer, its officers, directors, employees and agents, from all expense, loss, liability, damages and claims, including Buyer's attorneys' fees, if necessary, arising out of any misrepresentation by Seller and /or Seller's breach of any warranty or covenant. The provisions of this Section 10 shall survive the close of escrow for a period of two years.

## **11. Miscellaneous Terms.**

**11.1 Notices.** All notices required or permitted under this Agreement will be in writing and delivered to the parties by facsimile transmission, personally by hand, courier service or Express Mail, or by first class mail, postage prepaid, at the addresses stated in Recital A. All notices will be considered given: (a) if sent by mail, when deposited in the mail, first class postage prepaid, addressed to the party to be notified; (b) if delivered by hand, courier service or Express Mail, when delivered; or (c) if transmitted by facsimile, when transmitted. The parties may, by notice as provided above, designate a different address to which notice will be given.

**11.2 Legal Costs.** If any legal action is brought by either Seller or Buyer to enforce any provision of this Agreement or is based upon any matter arising out of or related in any way to this Agreement, the prevailing party will be entitled to recover from the other party reasonable attorneys' fees, court costs and all expenses of litigation, whether or not authorized by statute as costs, in such amounts as will be allowed by the court.

**11.3 No Broker's Commission.** Each party represents to the other that it has not used a real estate broker in connection with this Agreement or the transaction contemplated by this Agreement. If any person asserts a claim for a broker's commission or finder's fee against one of the parties, the party on account of whose actions the claim is asserted will indemnify, defend and hold the other party harmless from and against the claim. The indemnification obligation will survive the close of escrow or earlier termination of this Agreement.

**11.4 Time of the Essence; Dates.** Time is of the essence of this Agreement. If any date specified in this Agreement falls on Saturday, Sunday or a public holiday, that date will be considered to be the succeeding day on which public agencies and major banks are open for business.

**11.5 Binding on Successors.** This Agreement will be binding not only on the parties but also on their respective successors and assigns. In the event that Buyer assigns its interest in this Agreement to another party, Buyer agrees to provide to Seller, for Seller's approval, which approval shall not be unreasonably withheld, a form of assignment for use in accomplishing such assignment.

**11.6 Additional Documents.** Seller and Buyer agree to sign such additional documents, including escrow instructions, as may be reasonable and necessary to carry out the provisions of this Agreement.

**11.7 Nonforeign Certificate.** Concurrent with the execution of this Agreement, Seller will execute a Non-Foreign Certificate in the form attached hereto as Exhibit C. Seller acknowledges that if Seller is unable to certify that it is not a

foreign person or entity, Buyer may be required to withhold a portion of the Purchase Price at closing for U.S. income tax purposes.

**11.8 Resident Requirement.** The Parties acknowledge that as of January 1, 1994, California Revenue and Taxation Code Sections 18662 and 18668 place special requirements for tax reporting and withholding on buyers of California real property when (a) the selling price is greater than One Hundred Thousand Dollars (\$100,000.00); (b) the seller has not received a California Homeowners Property Tax Exemption during the year of the sale; and (c) the funds to the transaction are to be disbursed to either: (i) a seller with a last known address outside of California; or (ii) a financial intermediary of the seller. Seller agrees to sign, at or before Close of Escrow, any and all documents necessary to document compliance with the tax reporting and withholding requirements of California law as referred to above.

**11.9 Entire Agreement.** This Agreement and, upon execution, the Restrictive Covenant described in Section 3.3 and the Indemnity Agreement described in Section 6.6, constitute the entire agreement between the parties about the Property and supersedes all prior and contemporaneous agreements, representations, and understandings.

**11.10 Interpretation.** This Agreement will be interpreted without regard to any presumption or other rule of interpretation based on who drafted the Agreement.

**11.11 Amendment.** No amendment of this Agreement will be binding unless in writing and signed by the parties.

**11.12 Waiver.** No waiver of any term of this Agreement will be considered a waiver of any other term, whether or not similar, nor will any waiver be considered

a continuing waiver. No waiver will be binding unless in writing and signed by the party making the waiver.

**11.13 Assignment of Buyer's Interest.** Subject to Section 11.5, Buyer may assign its interest in this Agreement to an organization or entity that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1986 and applicable regulations.

**11.14 Severability.** Each term of this Agreement is severable from any and all other terms of this Agreement. Should any term of this Agreement be for any reason unenforceable, the balance will still be of full force and effect.

**11.15 No Merger.** The obligations contained in this Agreement, except for those specifically discharged in escrow (such as conveyance of title to the Property, placing any deeds of trust on the Property and delivery of money and documents in the escrow), will not merge with transfer of title but will remain in effect until fulfilled.

**11.16 Governing Law.** This Agreement will be governed by and interpreted in accordance with the laws of the State of California.

**11.17 Exhibits.** All Exhibits attached to this Agreement are incorporated into this Agreement by this reference.

**11.18 Counterparts/Execution by Facsimile.** This Agreement may be signed in counterparts, each of which will be considered an original and which together will constitute one and the same agreement. This Agreement may be signed and delivered via facsimile and a facsimile signature shall have the same legal effect as an original signature.

IN WITNESS of the foregoing provisions the parties have signed this Agreement below:

**SELLER:**

TDY INDUSTRIES, INC., A California corporation

By: 

Title: Executive Vice President - Finance  
and Administration and Chief Financial  
Officer

Date: May 1, 2000

**BUYER:**

THE TRUST FOR PUBLIC LAND, a California nonprofit public benefit corporation

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

a continuing waiver. No waiver will be binding unless in writing and signed by the party making the waiver.

**11.13 Assignment of Buyer's Interest.** Subject to Section 11.5, Buyer may assign its interest in this Agreement to an organization or entity that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1986 and applicable regulations.

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**SELLER:**

TDY INDUSTRIES, INC., A California corporation

By: 

Title: Executive Vice President - Finance and Administration and Chief Financial Officer

Date: May 1, 2000

**BUYER:**

THE TRUST FOR PUBLIC LAND, a California nonprofit public benefit corporation

By: 

Title: Regional Counsel

Date: May 1, 2000

## EXHIBIT A

### LEGAL DESCRIPTION

THE LAND SITUATED IN THE UNINCORPORATED AREA OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

#### PARCEL 1:

GOVERNMENT LOTS 3, 4, 8 AND 9 AND THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 1.

#### PARCEL 2:

THAT CERTAIN PARCEL OF REAL PROPERTY LOCATED IN THE NORTHEAST QUARTER OF SAID SECTION 1, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WESTERLY 800.00 FEET OF THE NORTHEAST QUARTER OF SECTION 1;

SAVING AND EXCEPTING THE SOUTHERLY 568.09 FEET OF SAID WESTERLY 800.00 FEET AND GOVERNMENT LOT 7 LYING ADJACENT TO THE NORTHERLY BOUNDARY OF SAID SECTION 1 AND WITHIN SAID WESTERLY 800.00 FEET;

EXCEPTING THAT PORTION OF GOVERNMENT LOTS 3 AND 8 AND THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 1, WHICH IS INCLUDED IN A STRIP OF LAND 200.00 FEET IN WIDTH LYING 100.00 FEET MEASURED AT RIGHT ANGLES ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE AND EXTENSION THEREOF;

BEGINNING AT A POINT IN THE NORTH LINE OF SAID SECTION 1, DISTANT THEREON 1959.18 FEET EASTERLY FROM THE NORTHWEST CORNER OF SAID SECTION 1;

THENCE SOUTH 8° 47' 19" WEST, DISTANT 457.81 FEET TO AN ANGLE POINT;

THENCE SOUTH 1° 24' 37" WEST, A DISTANCE OF 496.65 FEET TO ANGLE POINT;

THENCE 4° 32' 51" EAST, 1722.25 FEET, MORE OR LESS, TO A POINT IN THE SOUTH LINE OF SAID NORTHWEST QUARTER OF SAID SECTION 1, DISTANT THEREON 614.86 FEET WESTERLY FROM THE CENTER OF SAID SECTION 1, CONTINUING 11.45 ACRES, MORE OR LESS;

ALSO EXCEPTING THEREFROM THE GAS, OIL AND COAL RIGHTS IN AND TO PROPERTY ACQUIRED BY DEED FROM SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD;

TOGETHER WITH A RIGHT-OF-WAY FOR ROAD PURPOSES, MEETING RIVERSIDE COUNTY SPECIFICATIONS IN WIDTH, ALONG THE LINE OF THE PRESENTLY EXISTING AEROJET GENERAL CORPORATION ROADWAY.

**EXHIBIT B**

**SCOPE OF PHASE I ASSESSMENT**



January 31, 2013

Dear Customer:

The following is the proof-of-delivery for tracking number **546221778039**.

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**Delivery Information:**

<b>Status:</b>	Delivered	<b>Delivered to:</b>	Receptionist/Front Desk
<b>Signed for by:</b>	T.FRANCO	<b>Delivery location:</b>	4080 LEMON STREET.4TH FLR EXEC RIVERSIDE, CA 92501
<b>Service type:</b>	FedEx Standard Overnight	<b>Delivery date:</b>	Jan 30, 2013 10:33
<b>Special Handling</b>	Deliver Weekday  Direct Signature Required		

**NO SIGNATURE IS AVAILABLE**

FedEx Express proof-of-delivery details appear below; however, no signature is currently available for this shipment. Please check again later for a signature.

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**Shipping Information:**

<b>Tracking number:</b>	546221778039	<b>Ship date:</b>	Jan 29, 2013
		<b>Weight:</b>	0.5 lbs/0.2 kg

**Recipient:**

Jay Orr, County Executive Officer  
For Riverside County, California

**Shipper:**

Stringfellow  
Toeroek Associates, Inc.  
1300 Clay Street  
Suite 450  
Oakland, CA 94612 US  
9080-006

**Reference**

Thank you for choosing FedEx.